

ORDINANCE NO. _____

An ordinance amending Title 22 – Planning and Zoning – of the Los Angeles County Code related to the update of regulations for Significant Ecological Areas.

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SECTION 1. Section 22.08.190 is hereby amended to read as follows:

...

-- "SEATAC" means an expert advisory committee which assists the Department of Regional Planning and the Regional Planning Commission in their administration of Part 25 of Chapter 22.52. The members of the committee are appointed by the Director of the Department of Regional Planning.

~~----- "SEATAC" means the significant ecological area technical advisory committee.~~

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-- "sSignificant eEcological aArea" means: any portion of a lot or parcel of land containing an ecologically important land or water system that supports valuable habitat for plants and animals integral to the preservation of rare, threatened or endangered species and to the conservation of biological diversity in the County. Significant Ecological Areas are identified on the Significant Ecological Areas and Coastal Resource Areas Policy Map of the General Plan. The regulations applicable to uses and projects in Significant Ecological Areas are established in Part 25 of Chapter 22.52.

~~A. Significant ecological areas/habitat management areas designated on the special management areas map of the general plan.~~

~~B. Environmentally sensitive habitat areas, sensitive environmental resource areas, and rare plant habitat areas, identified in the Santa Catalina Island Local Coastal Program depicting any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.~~

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SECTION 2. Part 25 of Chapter 22.52 is hereby added to read as follows:

PART 25

SIGNIFICANT ECOLOGICAL AREAS

SECTIONS:

22.52.2600 Purpose.

22.52.2610 Definitions.

22.52.2620 Applicability.

22.52.2630 Applicability of zone and supplemental district regulations.

22.52.2640 Development Standards.

22.52.2650 Permitted Uses.

22.52.2660 Uses Subject to SEA Conditional Use Permit.

22.52.2670 SEA Conditional Use Permit Review.

22.52.2680 County Project Review.

22.52.2690 Voluntary Review.

22.52.2600 Purpose.

This Part 25 is established to regulate development within the County's Significant Ecological Areas ("SEAs"), as defined by Section 22.08.190. These regulations are intended to ensure a process whereby proposed developments meet the following three objectives: :

A. Assess and disclose biological resources present on a proposed development site, and the potential impacts to such resources from a proposed development;

B. Apply environmentally sensitive design practices and development standards to proposed developments; and

C. Prevent impacts to biological resources which would compromise the conservation of the County's biological diversity by affecting either the size or the connectivity of an SEA such that species populations of significance, as described within that SEA's Description within the General Plan, become unsustainable.

The purpose of this Part 25 is not to preclude development within SEAs but to equitably reconcile the potential conflicts between conservation and development and to ensure that development maintains and potentially enhances biotic resources within SEAs.

22.52.2610 Definitions. For purposes of this Part 25, the following definitions shall apply:

A. "Coastal Resource Area" means any portion of a lot or parcel of land containing an area located within the County's Coastal Zone and identified on the Significant Ecological Areas and Coastal Resource Areas Policy Map of the General Plan. Coastal Resource Areas include biological resources equivalent in significance

with SEAs, which are regulated in this Title 22 by Coastal Programs pursuant to Part 2 of Chapter 22.46, the Santa Catalina Island Specific Plan and Part 6 of Chapter 22.44, and the Malibu Coastal Program District.

B. “Ecological Transition Area” means any portion of a lot or parcel of land within an SEA where the natural ecological features or systems have been degraded as a result of past or on-going land use activities but are deemed functionally integral to the SEA or support important plant or animal populations. Ecological Transition Areas are a subset of SEAs and are identified on the Significant Ecological Areas and Coastal Resource Areas Policy Map of the General Plan.

C. Fencing, Wildlife Impermeable. “Wildlife Impermeable Fencing” means a fence, wall or gate which prevents the bypass of species living within an SEA.

D. Fencing, Wildlife Permeable. “Wildlife Permeable Fencing” means a fence or gate which may be bypassed by all species living within an SEA.

E. “Ground Disturbance” means any removal or thinning of vegetation, clearing to bare earth, agricultural discing, earthworks of any cubic yardage, or any other activity which would alter topography or affect areas of indigenous vegetation.

F. SEA Conditional Use Permit, Type A. “Type A SEA Conditional Use Permit” means a permit for a conditional use, as defined by Section 22.56.010, that is required by Section 22.56.2640 for those conditional uses expected to have lower potential impacts to an SEA pursuant to the criteria provided in Section 22.52.2670.C.

G. SEA Conditional Use Permit, Type B. “Type B SEA Conditional Use Permit” means a permit for a conditional use, as defined by Section 22.56.010, that is

required by Section 22.56.2640 for those conditional uses expected to have higher potential impacts to an SEA pursuant to the criteria provided in Section 22.52.2670.C.

H. “SEA Developed or Disturbed Areas Map” means the map maintained by the Department of Regional Planning that identifies all developed or disturbed areas within SEAs prior to the effective date of the ordinance establishing this Part 25 and all areas within SEAs subsequently approved for development or ground disturbance pursuant to this Part 25.

I. “SEA Design Manual” means the manual maintained by the Department of Regional Planning that includes species lists referenced in this Part 25 as well as additional guidance on best practices and recommended approaches for site design within the SEAs.

J. “SEA Habitat Linkages and Wildlife Corridors Map” means the map maintained by the Department of Regional Planning that includes habitat linkages and wildlife corridors referenced in this Part 25.

22.52.2620 Applicability. The provisions of this Part 25 shall apply to any ground disturbance wholly or partially located within an SEA and to any use or project, including construction activities, storage, Fuel Modification Zones, and related off-site and off-site improvements such as grading, roads, sewer lines, water lines, and drainage facilities wholly or partially located within an SEA, except for:

A. Any complete SEA Conditional Use Permit application filed with the Department of Regional Planning prior to the effective date of the ordinance establishing this Part 25. Such application shall be processed in accordance with

Section 22.56.215 as it existed prior to the effective date of the ordinance establishing this Part 25.

B. Any valid SEA Conditional Use Permit granted in accordance with Section 22.56.215 as it existed prior to the effective date of the ordinance establishing this Part 25, including any SEA Conditional Use Permit granted in accordance with subsection A above. In such cases, the ground disturbance, use or project shall be governed by the SEA Conditional Use Permit during the life of that permit. Any modifications to the SEA Conditional Use Permit shall be subject to the provisions of this Part 25.

C. Any complete application for a Site Plan Review, Director's Review, Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, Oak Tree Permit, or Housing Permit filed with the Department of Regional Planning prior to the effective date of the ordinance establishing this Part 25 which was not subject to Section 22.56.215 as it existed prior to the effective date of the ordinance establishing this Part 25. Such application shall not be processed in accordance with this Part 25.

D. Any Site Plan Review, Director's Review, Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, Oak Tree Permit, or Housing Permit which was not subject to Section 22.56.215 as it existed prior to the effective date of the ordinance establishing this Part 25, including any such Site Plan Review, Director's Review, Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, Oak Tree Permit, or Housing Permit granted in accordance with subsection C above. Any modifications to any such Site Plan Review, Director's Review, Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, Oak Tree Permit, or Housing Permit shall be subject to the provisions of this Part 25.

E. Any ground disturbance, use or project designed such that the entire footprint of the ground disturbance, use or project, including construction activities, storage, Fuel Modification Zones, and related off-site and off-site improvements such as grading, roads, sewer lines, water lines, and drainage facilities, is located outside of the SEA.

F. Lot line adjustment of one property line between two parcels.

G. Mining projects and reclamation plans that require a Surface Mining Permit, as provided in Part 9 of Chapter 22.56.

H. Any of the following activities required, requested, or permitted by a governmental agency:

1. Removal or thinning of vegetation for fire safety; and
2. Hazard management activities in response to public safety concerns.

22.52.2630 Applicability of zone and supplemental district regulations. If this Part 25 applies to any ground disturbance, use or project pursuant to Section 22.52.2620, all provisions of the zone and any supplemental district in which such ground disturbance, use or project is located shall also apply, except where a provision of this Part 25 is more restrictive than a provision regulating the same matter in any such zone or supplemental district.

22.52.2640 Development Standards. The following development standards shall apply in addition to all other applicable development standards of this Title 22:

A. Landscaping. Landscaped areas within an SEA shall not include invasive species listed in the Invasive Species List of the SEA Design Manual.

B. Outdoor Lighting. Outdoor lighting within an SEA is only permitted in areas approved for development or ground disturbance. All outdoor lighting shall comply with the standards established in Part 9 of Chapter 22.44.

C. Fencing.

1. Wildlife Impermeable Fencing. Wildlife impermeable fencing is permitted in areas approved for development or ground disturbance in order to protect structures and residences from wildlife incursions and to prevent livestock and companion animals from accessing undisturbed natural areas. Wildlife impermeable fencing is also permitted, on a temporary basis, at construction sites, in conjunction with uses authorized by a Temporary Use Permit in accordance with Part 14 of Chapter 22.56, or in conjunction with restoration or revegetation projects that would require protection from other species.

2. Wildlife Permeable Fencing. Wildlife permeable fencing is permitted to delineate lot boundaries or to section off project features such as roads or trails. Such fencing shall include a consistent gap of at least 18 inches, as measured from the ground up, between fence posts, shall not exceed four feet in height, and shall leave at least two feet between any vertical or horizontal rails or boards.

3. Prevention of Wildlife Injury. All fencing in an SEA shall be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. All hollow fence posts or fences with top holes, such as metal pipes, shall be capped to prevent the entrapment of bird species.

D. Construction. Construction activities shall comply with the following State and Federal regulations, if applicable:

1. The Migratory Bird Treaty Act (16 U.S.C. Section 703); and
2. California Fish and Game Code Sections 3503 and 3513.

E. Fuel Modification Zones. The following standards shall apply when Fuel Modification Zones are required by a governmental agency for fire safety:

1. New structures and other infrastructure requiring Fuel Modification Zones shall share such zones with those already created for existing structures and infrastructure on the same lot or parcel of land or on adjoining lots or parcel of land, if possible.

2. New structures or infrastructure requiring Fuel Modification Zones shall not be located in such a way that any portion of the required Fuel Modification Zone will include dedicated open space areas on the lot or parcel of land or on adjoining or adjacent lots or parcels of land. In addition, such structures or infrastructure shall not be located in a way that any portion of the required Fuel Modification Zone will include undisturbed natural areas on adjoining or adjacent lots or parcels of land, if possible.

F. Streets and Highways. New streets or highways which bisect habitat linkages and wildlife corridors on the SEA Habitat Linkages and Wildlife Corridors Map shall include construction of wilderness crossing points for the safe passage of species. Where improvements are made to a street or highway which bisects a previously existing habitat linkage or wildlife corridor, such improvements shall include features to restore the previously existing habitat linkage or wildlife corridor through the construction of wilderness crossing points for the safe passage of species.

G. Trees. New structures or infrastructure shall be set back by at least 50 feet from the dripline of any mature tree identified on the Tree Species List of the SEA Design Manual and identified during the biologist site visit required by Section 22.52.2650.B.1. Oak trees shall also be subject to the provisions of Part 16 of Chapter 22.56.

H. Habitat Linkages. New ground disturbances may not encroach upon a habitat linkage identified on the SEA Habitat Linkages and Wildlife Corridors Map and identified during the biologist site visit required by Section 22.52.2650.B.1. For the purposes of this subsection H, encroachment is defined to occur when the area of ground disturbance, plus required Fuel Modification Zones related to such disturbance, would narrow the width of the habitat linkage to fewer than 1,000 feet at any point along the habitat linkage.

I. Wildlife Corridors. New ground disturbances may not encroach upon a wildlife corridor identified on the SEA Habitat Linkages and Wildlife Corridors Map and identified during the biologist site visit required by Section 22.52.2650.B.1. For the purposes of this subsection I, encroachment is defined to occur when the area of ground disturbance, plus required Fuel Modification Zones related to such disturbance, would narrow the width of the wildlife corridor to fewer than 200 feet at any point along the wildlife corridor.

J. Species. When any ground disturbance, use, or project may encroach upon a likely to occur species of special status identified in the SEA's Description in the General Plan and discovered during the biologist site visit required by Section 22.52.2650.B.1, such ground disturbance, use or project shall not impact an area of

exceeding 50 percent of the habitat area for the species of special status on the lot or parcel of land.

K. Water Resources.

1. Following the biologist site visit required by Section 22.52.2650.B.1, the applicant shall prepare a map identifying water resources, including the width, depth and location of all natural watercourses and artificial drains or conduits for the drainage of stormwater located on the lot or parcel of land as well as any natural watercourses on adjoining lots or parcels of land.

2. The applicant shall demonstrate to the satisfaction of the Department of Regional Planning that runoff created by the ground disturbance, use or project will not materially affect water resources located on the lot or parcel of land and on adjoining lots or parcels of land, as identified during the biologist site visit required by Section 22.52.2650.B.1 and on the map required by subsection K.1 above, either by increasing or diminishing the supply of natural watercourses or by adding pollutants.

3. All water resources on the lot or parcel of land and on adjoining lots or parcels of land identified in the biologist site visit required by Section 22.52.2650.B.1 and identified on the map required by subsection K.1 above, shall be adequately set back from any ground disturbance or use. The following setbacks shall apply:

a. Vernal Pools. The setback shall be 150 feet or the watershed boundary, whichever is greater, as measured from the vernal pool extent;

b. Marshes, Seeps, and Springs. If the water resource is less than one half acre in size, the setback shall be 75 feet as measured from the edge of the saturated soil. If the water resource is greater than one half acre and up to one acre

in size, the setback shall be 150 feet as measured from the edge of the saturated soil. If the water resource is greater than one acre in size, the setback shall be 300 feet as measured from the edge of the saturated soil.

c. Riparian Resources. If the watercourse is less than 50 feet wide in a wet year, the setback shall be 75 feet as measured from the outer edge of riparian habitat on each side of the watercourse. If the watercourse is 50 to 100 feet wide in a wet year, the setback shall be 150 feet as measured from the outer edge of riparian habitat on each side of the watercourse. If the watercourse is greater than 100 feet wide in a wet year, the setback 300 feet as measured from the outer edge of riparian habitat on each side of the watercourse.

22.52.2650 Permitted Uses.

A. The following uses are permitted, provided that a Site Plan Review application is approved pursuant to subsection B below:

1. Individual single-family residences, accessory structures, and additions to individual single-family residences and accessory structures, including all related ground disturbance, on one lot or parcel of land and subject to all applicable development standards of Section 22.52.2640;

2. Any use or project designed such that the entire footprint of the use or project, including all ground disturbance, construction activities, storage, Fuel Modification Zones and related on-site and off-site improvements, is located within developed or disturbed areas identified in the SEA Developed or Disturbed Areas Map, subject to the development standards provided in Sections 22.52.2640.A, 22.52.2640.B, and 22.52.2640.C;

3. Any use or project requiring a Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, or Housing Permit on a site where a previously granted Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, or Housing Permit has expired, provided that the use or project is deemed a fundamentally similar use to the use or project authorized by the previous grant. Such use or project shall be subject to all applicable development standards of Section 22.52.2640;

4. Modifications to any use or project previously approved by a Site Plan Review, Director's Review, Variance, Conditional Use Permit, Cemetery Permit, Mobilehome Permit, Oak Tree Permit, or Housing Permit, provided that the modification does not propose expanding the ground disturbance beyond that authorized by the previous approval. Such modifications shall be subject to all applicable development standards of Section 22.52.2640;

5. Any of the following activities to improve the quality of biological resources in an SEA conducted by a governmental agency or a non-profit land conservation organization that meets the Statement of Qualifications of Non-Profits Requesting to Hold Mitigation Land according to Government Code Section 65965, subject to all applicable development standards of Section 22.52.2640:

- a. Non-native vegetation removal programs;
- b. Native habitat restoration programs; and
- c. Construction of wildlife under and overpasses for habitat linkages and wildlife corridors.

B. Site Plan Review. The following provisions shall apply to the Site Plan Review application in addition to any site plan procedures and submission materials

required by the zone and any supplemental district or in which the use is located, as provided in Section 22.52.2620:

1. Biologist Site Visit. A Department of Regional Planning staff biologist shall conduct a site visit to assess the location of biological resources and physical conditions prior to approval of the Site Plan Review application. Such site visit shall include appraisal of habitat types, observed or likely to occur species identified in the SEA's description in the General Plan, location of tree species, and identification of water resources. Any identified resources shall be subject to the development standards of Section 22.52.2640 where applicable.

2. When instances of an observed or likely to occur species of special status officially listed by the State or Federal Governments as Endangered, Threatened or Rare are discovered during the biologist site visit, the application shall be referred to the California Department of Fish and Game and the applicant shall comply with all relevant State and Federal laws and obtain all necessary State and Federal permits.

22.52.2660 Uses Subject to SEA Conditional Use Permit. The following uses shall require an SEA Conditional Use Permit:

A. Any ground disturbance, use or project that is not otherwise permitted by Section 22.52.2630, including development of new single-family residences on two or more lots or parcels of land in a coordinated effort, regardless of the ownership of the involved lots or parcels and regardless of whether the developments are applied for concurrently or through multiple successive applications;

B. Any ground disturbance, use or project that is otherwise permitted by Section 22.52.2650 but does not comply with the applicable development standards of Section 22.52.2640; and

C. Any ground disturbance, use or project that is otherwise permitted by Section 22.52.2650 but which may encroach upon an observed species of special status identified in the SEA's description in the General Plan, or upon an undiscovered or previously thought extinct species, as discovered during the biologist site visit required by Section 22.52.2650.B.1.

22.52.2670 SEA Conditional Use Permit Review. The following provisions shall apply when an SEA Conditional Use Permit ("SEA CUP") is required pursuant to Section 22.52.2660:

A. Initial Project Appraisal.

1. All prospective applicants for a SEA CUP shall complete an initial project appraisal before a complete SEA CUP application may be submitted to the Department of Regional Planning. An initial project appraisal consists of a preliminary review meeting with a Department of Regional Planning staff biologist and a Department of Regional Planning staff planner to discuss conceptual information regarding the prospective ground disturbance, use or project. The initial project appraisal is intended to ensure that the prospective applicant is clearly advised of the requirements of this Part 25.

2. To initiate an initial project appraisal the prospective applicant shall prepare and submit the following information to the Department of Regional Planning:

a. All information required by Sections 22.56.030.A.1, 22.56.030.A.3, 22.56.030.A.5, and 22.56.030.A.6. When submitting the information required by Section 22.56.030.A.5, the prospective applicant shall identify any anticipated site design and construction measures intended to protect biological and ecological resources;

b. The number of acres on the project site located within the SEA;

c. The number of acres on the project site located within the SEA that would be retained as natural open space and any associated management provisions; and

d. Panoramic or composite photographs taken from each corner of the project site and from the highest elevated points within the project site, along with a photograph key.

B. SEA CUP Application. A complete SEA CUP application shall consist of the following:

1. Documentation that an initial project appraisal has been completed in accordance with subsection A.1 above;

2. All information required by Section 22.56.030, a burden of proof statement that substantiates the findings required by subsection G below, and any other information that the Department of Regional Planning determines to be necessary for adequate evaluation;

3. All information required by subsections A.2.a, A.2.b, and A.2.c above;

4. Panoramic or composite photographs, as required by subsection A.2.d above, provided that such photographs are taken no more than 90 days prior to application submission. Additional photographs and/or a photographic simulation of the project site may be required at the discretion of the Department of Regional Planning; and

5. An SEA Site Assessment Report and an SEA Site Impacts Report. The required contents of these reports are provided in the SEA Design Manual. The Department of Regional Planning shall accept a finalized SEA Site Assessment Report prior to submission of a preliminary SEA Site Impacts Report.

C. SEA CUP Criteria. The following criteria shall be applied to an SEA CUP application using the information submitted as part of the complete application required by subsection B above, including a preliminary SEA Site Assessment Report, but prior to completion of a finalized SEA Assessment Report:

1. Significant Ecological Area Sites. A Type A SEA CUP shall be required unless the SEA CUP application meets one or more of the following criteria, in which case a Type B SEA CUP shall be required:

a. The proposed project is a subdivision as defined by Section 21.08.170;

b. The project may result in the creation of a habitat area which no longer maintains connectivity with the rest of the SEA's natural areas;

c. The project or the construction activities accompanying the project may result in adverse effects to species listed in the SEA's description in the General Plan, or to species identified as candidate, sensitive, or special status species

by the California Department of Fish and Game or the United States Fish and Wildlife Service;

d. The project may result in a transformation of land use where land which is in a natural state, or land which is being used for outdoor agricultural activities in an unpaved, unimproved state, is converted into land characterized by permanent hardscaping, including but not limited to pavement, parking lots, concrete drainage structures, or building pads, where such permanent hardscaping covers an area of at least one acre in size or an area of half the project site, whichever is greater;

e. The project may encroach upon a habitat linkage identified on the SEA Habitat Linkages and Wildlife Corridors Map and identified during the biologist site visit required by Section 22.52.2650.B.1. For the purposes of this subsection C.1.e, encroachment is defined to occur when the area of ground disturbance, plus required Fuel Modification Zones related to such disturbance, would narrow the width of the habitat linkage to fewer than 1,000 feet at any point along the habitat linkage; and

f. The project may create adverse impacts to a water source, water course or drainage, either through removal or addition of waters on the site, alteration of the hydrology and drainage to the majority of the lot or parcel of land, or construction activities within the setback areas for water resources provided in Section 22.52.2640.K.3.

2. Ecological Transition Area Sites. If the SEA CUP application relates to a site wholly within the SEA subset of Ecological Transition Area, as defined by Section 22.52.2610.B, a Type A SEA CUP shall be required unless the SEA CUP application

meets one or more of the following criteria, in which case a Type B SEA CUP shall be required:

a. The proposed project is a subdivision as defined by Section 21.08.170;

b. The proposed project may result in the creation of an undisturbed habitat area which no longer maintains connectivity with the rest of the SEA's undisturbed habitat areas on the subject lot or parcel of land and/or on adjoining or adjacent lots or parcels of land; and

c. The project may create adverse impacts to a water source, water course or drainage, either through removal or addition of waters on the site, alteration of the hydrology and drainage to the majority of the lot or parcel of land, or construction activities within the setback areas for water resources given in Section 22.52.2640.K.3.

D. Significant Ecological Area Technical Advisory Committee Review. The Significant Ecological Area Technical Advisory Committee ("SEATAC") shall review complete applications for a Type B SEA CUP. During this review, SEATAC may make recommendations to the Department of Regional Planning regarding any additional studies, site design modifications, conditions of approval, or additional mitigation measures which will improve the quality of the application and/or the proposed project. At the conclusion of this review, SEATAC shall provide the Department of Regional Planning with a final determination of the proposed project's compatibility with the SEA based on the purpose and findings of this Part 25. This final determination is intended to provide information to the Department of Regional Planning and the Regional Planning

Commission regarding which conditions of approval may be appropriate for the proposed project if the Department of Regional Planning recommends approval.

E. Conditions of Approval.

1. Development Standards. All applicable development standards in Section 22.52.2640 shall be made conditions of approval for any SEA CUP, except where modified by the Reviewing Authority (Hearing Officer or Regional Planning Commission), in addition to any other condition of approval imposed by such Reviewing Authority.

2. Open Space Requirement for Type A SEA CUP. Provision of open space may be made a condition of approval for a Type A SEA CUP if the project site is one gross acre or greater in size and if the impacts detailed in the SEA Site Impacts Report required by subsection B.5 above would warrant provision of open space. When provision of open space is required, the following areas shall be prioritized for inclusion in the required open space in the following order:

a. Areas on the same lot or parcel of land that will preserve the same types of habitat, species or water resources that will be impacted by the project;

b. Areas on any lot or parcel of land within the same SEA that will preserve the same types of habitats, species or water resources that will be impacted by the project;

c. Areas on any lot or parcel of land within the same SEA that will preserve types of habitat, species or water resources that are more rare in the SEA than the types of habitat, species, or water resources that will be impacted by the project.

d. Areas on any lot or parcel of land within the same SEA that will preserve the narrowest point of any habitat linkage or wildlife corridor on the SEA Habitat Linkages and Wildlife Corridors Map; and

e. If no lot or parcel of land may be acquired within the same SEA because all lots or parcels of land within that SEA have been developed or preserved as open space, and if at least 80 percent of that SEA has been permanently dedicated as open space remaining in a natural condition or restored to a natural condition, open space may be provided in areas within the nearest adjacent SEA. Areas within the nearest adjacent SEA shall be prioritized in the order provided in subsections E.2.b through E.2.d above.

3. Open Space Requirement for Type B SEA CUP. Provision of open space shall be made a condition of approval for a Type B SEA CUP if the project site is one gross acre or greater in size. Open space shall be provided at a minimum ratio of twice the area that is being proposed to be newly developed or disturbed. Areas shall be prioritized for inclusion in the required open space in the order provided in subsections E.2.a through E.2.e above.

4. Open Space Use and Design Requirements. If open space is required pursuant to either subsection E.2 or E.3 above, the following open space use and design requirements shall be made conditions of approval if applicable:

a. Required open space shall remain undisturbed in a natural condition. Notwithstanding any applicable provisions in Section 22.56.215, no improvements shall be allowed within open space required by either subsection E.2 or E.3 above.

b. If required open space will be provided on the same lot or parcel of land as the project in accordance with subsection E.2.a above, such open space shall be configured in the following manner:

(1). Projects other than Subdivisions. Required open space shall be contiguous and designated as an Open Space - Restricted Use Area.

(2). Subdivisions. Where a project site is greater than 40 acres in size, required open space shall be contiguous and configured into open space lots separate from lots where development is proposed. Where a project site is 40 acres or fewer in size, required open space shall be contiguous and may be designated as an Open Space -- Restricted Use Area in lieu of separate open space lots; or

c. If required open space will be provided on a different lot or parcel of land in accordance with subsections E.2.b through E.2.e above, such open space shall be contiguous and shall be designated as an Open Space - Restricted Use Area.

5. Open Space Recordation Requirements. If open space is required pursuant to either subsection E.2 or E.3 above, the following open space recordation requirements shall be made conditions of approval, if applicable, to prevent subsequent development of required open space:

a. Projects other than Subdivisions. If required open space will be provided on the same lot or parcel of land as the project in accordance with subsection E.2.a above, such open space shall be shown on the site plan or lot line adjustment exhibit, shall be labeled as Open Space - Restricted Use Area in the preservation instrument, and shall be recorded as an easement. If required open space

will be provided on a different lot or parcel of land in accordance with subsections E.2.b through E.2.e above, such open space shall be shown on an open space exhibit, shall be labeled as Open Space - Restricted Use Area in the preservation instrument, and shall be recorded as an easement.

b. Subdivisions. If required open space will be provided on the same lot or parcel of land as the project in accordance with subsection E.2.a above, such open space shall be shown on the tentative map and the final map, shall be subsequently recorded on the final map and/or as an easement, and shall be labeled as Open Space -- Restricted Use Area in the preservation instrument and on all maps. If required open space will be provided on a different lot or parcel of land in accordance with subsections E.2.b through E.2e above, such open space shall be shown on an open space exhibit, shall be labeled as Open Space - Restricted Use Area in the preservation instrument, and shall be recorded as an easement; or

6. Open Space Ownership and Management Requirements. If open space is required pursuant to either subsection E.2 or E.3 above, the following open space ownership and management requirements shall be made conditions of approval if applicable:

a. All Projects. If required open space will be provided on a different lot or parcel of land in accordance with subsections E.2.b through E.2.e above, and required open space will occupy the entirety of such lot or parcel of land, making it an open space lot, ownership and management of the open space lot shall be established to hold and manage the open space, under a mandate to protect it in perpetuity through dedication to one of the following entities:

(1). A governmental entity such as county, city, state, federal or joint power authority;

(2). A non-profit land conservation organization that meets the Statement of Qualifications of Non-Profits Requesting to Hold Mitigation Land according to Government Code Section 65965; or

(3). Dedication to a Home Owners' Association

b. Subdivisions. If required open space will be provided on the same lot or parcel of land as the project in accordance with subsection E.2.a above and is configured into open space lots separate from lots where development is proposed in accordance with subsection E.4.b.(2) above, ownership and management of the open space lots shall be established to hold and manage the open space, under a mandate to protect it in perpetuity, though dedication to one of the entities identified in subsection E.6.a above.

7. Other Conditions of Approval. An SEA CUP shall apply to the entire project site, including portions of the project site that are not located within an SEA. An SEA CUP may specify that certain conditions only apply to those portions of a project site within an SEA. The conditions of an SEA CUP may also specify that if the project site is subsequently divided in accordance with a subdivision, any subsequent application to modify the SEA CUP need only relate to the lots or parcels of land affected by such modification instead of the entire project site.

F. Review and Hearings. An application for a Type A SEA Conditional Use Permit shall not be reviewed by the Significant Ecological Area Technical Advisory Committee and shall be considered by a Hearing Officer in accordance with the public

hearing procedures provided in Part 4 of Chapter 22.60. An application for a Type B Conditional Use Permit shall be reviewed by the Significant Ecological Area Technical Advisory Committee and shall be considered by the Regional Planning Commission in accordance with the public hearing procedures provided in Part 4 of Chapter 22.60.

G. Staff Report. The Department of Regional Planning shall prepare a report to the Reviewing Authority (Hearing Officer or Regional Planning Commission) containing a detailed review of the complete SEA CUP application, which shall include but not be limited to:

1. The SEA Site Assessment Report detailing the habitat, species, or water resources located on the project site;
2. The SEA Site Impacts Report detailing the anticipated impacts to the habitat, species, or water resources located on the project site;
3. An appraisal of measures taken to protect habitat, species, or water resources located on the project site;
4. Any recommended changes to the proposed ground disturbance, use or project that are necessary to substantiate the findings required by subsection G below;
5. Any recommended conditions of approval, including but not limited to those specified in subsection E above, that are necessary to ensure that the proposed ground disturbance, use or project substantiates the findings required by subsection H and is otherwise consistent with the provisions of the General Plan, any relevant Area or Community Plan, and this Title 22;

6. Any recommended modifications to applicable development standards in Section 22.52.2640 when such modifications would be necessary to satisfy other regulations in effect for the use within the County Code, State regulations, or Federal regulations.

6. If the SEA CUP is a Type A SEA CUP, an appraisal of whether provision of open space is warranted in accordance with subsection E.2 above;

7. If the SEA CUP is a Type B SEA CUP:

a. The SEATAC determination of the proposed ground disturbance, use or project's compatibility with the SEA; and

b. A summary of SEATAC recommendations pertaining to the proposed ground disturbance, use or project, noting if and where the SEATAC recommendations differ from the conditions of approval recommended by the Department of Regional Planning.

H. Findings. The Reviewing Authority (Hearing Officer or Regional Planning Commission) shall not approve an SEA CUP application unless the Reviewing Authority finds that the application substantiates all of the following findings, in addition to those required by Section 22.56.090:

1. The applicant has adequately surveyed and disclosed potential impacts to habitats, water resources, species of special interest as provided in the SEA Design Manual, and habit linkages, to the satisfaction of the Department of Regional Planning, and if the SEA CUP is a Type B SEA CUP, to the satisfaction of SEATAC;

2. If open space will be provided in conjunction with the proposed ground disturbance, use or project, the open space to be provided has high ecological

value because it contains any combination of SEA designated species, new species, water resources, habitat linkages, or high value habitat; and

3. The proposed ground disturbance, use or project will not result in the loss of SEA viability. For purposes of this finding, loss of viability in an SEA is defined to occur when the proposed ground disturbance, use or project may cause any of the following:

- a. Bisection of the SEA;
- b. Closing of a habitat linkage or wildlife corridor mapped on the SEA Habitat Linkages and Wildlife Corridors Map;
- c. Removal of habitat characteristic of the SEA and described in the SEA's description provided in the General Plan;
- d. Removal of habitat that is the only known location of a SEA species described in the SEA's description provided in the General Plan; or
- e. Removal of habitat that is the only known location of a new or rediscovered species.

22.52.2680 County Project Review. The following review procedures are required for any ground disturbance, use or project to be undertaken by the County:

A. Notification. The lead County department shall provide a document describing the details of the project, as well as any relevant environmental documents, to the Department of Regional Planning.

B. Review Determination. The project shall be reviewed at an Initial Project Appraisal in accordance with Section 22.52.2670.A.1. Following the Initial Project Appraisal, the Department of Regional Planning shall apply the criteria provided in

Section 22.52.2670.C to determine whether the project would meet the criteria for a Type B SEA CUP. If the project meets such criteria, the project shall be reviewed by SEATAC.

C. SEATAC Review. If the project requires SEATAC review pursuant to subsection B above, the lead County department shall prepare an SEA Site Assessment Report and an SEA Impacts Report and shall present the project to SEATAC. Following SEATAC review of the proposed project, the Department of Regional Planning shall prepare a report of recommendations and shall provide such report to the lead County department. The report shall include any recommendations that would improve the quality of the project's studies and design and shall disclose whether the SEATAC finds the project to be compatible with the purpose of this Part 25. This report shall be included as part of the project's publicly available documents and presented as part of any subsequent project reports to the Board of Supervisors and its attendant commissions.

22.52.2690 Voluntary Review. Voluntary review is established for any ground disturbance, use or project that does not require an SEA CUP pursuant to Section 22.52.2660 if the proponent of such ground disturbance, use or project wishes seek input from the Department of Regional Planning or SEATAC in order to rigorously assess the biological resources on the project site and/or to ensure environmentally sensitive project design. The proponent may request an Initial Project Appraisal in accordance with Section 22.52.2670.A and/or SEATAC review in accordance with Section 22.52.2670.D, in order to facilitate more environmentally sensitive site design of projects.

SECTION 3. Part 2 of Chapter 22.60 is hereby amended to read as follows:

Note: There are several new processes in this Draft Significant Ecological Area Ordinance which will require new or adjusted fees. The amount of these fees will be determined prior to release of any subsequent draft. The following items may be included as new or changed fees in subsequent drafts of the Significant Ecological Areas Ordinance:

- *Biologist Site Visit*
- *Initial Project Appraisal*
- *Type A SEA CUP*
- *Type B SEA CUP*
- *County Project Review*
- *Voluntary Review*